

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kevin A. Seiling

Serial No. 10/800,501

Filed: March 15, 2004

Art Unit: 1771

Patent Examiner: Vo, Hai

Our Ref: 01-180 CIP

COMPOSITE DECKING

Assistant Commissioner for Patents
Washington, DC 20231

November 5, 2007

DECLARATION OF WILLIAM RENAUD

NOW COMES William Renaud, an individual, who resides at 1523 Marshallton Thorndale Rd, Downingtown, PA 19335, and who declares that the following facts are true, complete and correct:

1. In 1984, I earned a BS in Geology from Juniata College. In 1985, I earned an MBA from Point Park University.
2. From 1986 until 1992 I was employed by Mobay Chemical Company (currently Bayer USA) where my responsibilities included sales and marketing.
3. I am currently Vice-President of Marketing for Kaneka Texas Corporation in Pasadena, Texas ("Kaneka Texas") where I have been employed for approximately 15 years. Kaneka Texas is a subsidiary of Kaneka Corporation of Osaka, Japan (herein "Kaneka Japan").
4. Since 1984, Kaneka Texas has manufactured specialty additives that are used in the subsequent manufacture of polymer compounds - particularly polyvinyl chloride (herein "PVC") and chlorinated polyvinyl chloride (herein "CPVC").

5. Kaneka Japan makes and sells both PVC and CPVC. Kaneka Texas markets CPVC for Kaneka Japan.
6. As the Vice President of Marketing for Kaneka Texas, I have promoted and discussed CPVC products with of customers who purchase and use additives in the manufacture of CPVC. Through this experience, I have become knowledgeable in the art of vinyl compound formulas and particularly with the compounding of PVC and CPVC.
7. In discussing CPVC with Kaneka Texas customers and others, we refer to polyvinyl chloride as "PVC" and to chlorinated polyvinyl chloride as "CPVC." Similarly, our customers and prospective customers also refer to polyvinyl chloride as "PVC" and to chlorinated polyvinyl chloride as "CPVC." As used in the industry and as understood by one skilled in the art, the term "PVC" means "polyvinyl chloride" and does not mean a combination of both polyvinyl chloride (PVC) and chlorinated polyvinyl chloride (CPVC). "PVC" is not a generic term for "PVC" in combination with "CPVC."
8. Throughout the industry, it is commonly understood by those skilled in the art that polyvinyl chloride or "PVC" is a different compound than chlorinated polyvinyl chloride or "CPVC." The differences in the compounds result in differences in the chemical and physical properties of PVC and CPVC as well as differences between the commercial use of PVC and the commercial use of CPVC. As a result, those who are of ordinary skill and understanding in the industry use the term "PVC" to designate "polyvinyl chloride" and use the term "CPVC" to designate "chlorinated polyvinyl chloride", a different compound than PVC.
9. As used by those skilled in the art, PVC is not a generic term whose meaning includes both PVC and CPVC. CPVC is not just another form of PVC. CPVC is an enhanced heat resistant, smoke suppressant, flame retardant product that has high-temperature applications such as piping for industrial waste water, residential hot-water supply lines, and fire sprinklers as well as in other fittings, sheets and plate materials.
10. I have read U.S. Patent Application Serial No. 10/800,501 which is entitled "Composite Decking". (herein "the '501 Application"). The '501 Application

describes a deck plank that is made of polyvinyl chloride that is formed with internal closed cells and glass fibers that are imbedded in the closed cell polyvinyl chloride. The internal closed cells in the composite material define 30% to 70% of the volume of the deck plank.

11. I am advised that the U.S. Patent Office contends that a deck plank that is made of polyvinyl chloride that is formed with internal closed cells that define 30% to 70% of the volume of the deck plank and glass fibers that are imbedded in the closed cell polyvinyl chloride as claimed in the '501 Application would be obvious to one skilled in the art from U.S. Patent 5,789,453 to Detterman ("Detterman") in view of U.S. Patent 5,474,831 to Nystrom ("Nystrom").
12. I have read Detterman and Nystrom.
13. Detterman describes a composition of chlorinated polyvinyl chloride ("CPVC") but does not describe or suggest the use of polyvinyl chloride ("PVC"). Detterman distinguishes CPVC compositions from polyvinyl chloride ("PVC") compositions. Throughout, Detterman identifies and discusses CPVC as a composition that is distinct from PVC. Indeed, Detterman teaches that CPVC is made from PVC (See Table 1). Detterman is consistent with the understanding of those skilled in the art that CPVC and PVC are recognized in the art as different compositions.
14. Nystrom describes a wooden plank and does not describe a polymer material. Therefore, Nystrom does not change the fact that CPVC and PVC are recognized in the art as different compositions.
15. One skilled in the art would understand that "PVC" as used throughout the '501 Application does not include "CPVC." As used in the industry and as understood by one skilled in the art, the term "PVC" does not mean both non-chlorinated PVC and CPVC."
16. "PVC" is not generic for "PVC" and "CPVC." The assertion that "PVC" is generic for a combination of "PVC" and "CPVC" is contrary to the understanding of those skilled in the art. The assertion that "PVC" is understood by those skilled in the art as generic for a combination of "PVC" and "CPVC" is erroneous.

17. Based on my years of experience in the development of polyvinyl chloride compounds, in November 2001 one normally skilled in the art would not have understood CPVC as used in Detterman to mean PVC. Further, in November 2001 from Detterman it would not have been obvious to one skilled in the art to substitute the CPVC described in Detterman with PVC.
18. Detterman does not teach that the composition therein could be altered from a CPVC composition to a PVC composition. As one skilled in the art and having read both the '501 Application and Detterman, I conclude that it would not have been obvious to one skilled in the art to modify Detterman by replacing the CPVC described in Detterman with PVC.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further I say not.

A handwritten signature in black ink, appearing to read 'William Renaud', is written over a horizontal line. The signature is stylized with a large, looping initial 'W'.

William Renaud